UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1994/SR.11
22 June 1995

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS

Fiftieth session

SUMMARY RECORD OF THE 11th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 7 February 1994, at 3 p.m.

Chairman: Mr. van WULFFTEN PALTHE (Netherlands)

later: Mr. ENDO (Japan)

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The meeting was called to order at 3.10 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

Situation of human rights in the territory of the former Yugoslavia (agenda item 12) (E/CN.4/1994/3, 4, 5, 6, 8 and 47)

1. The CHAIRMAN said that, owing to the events that had taken place at Sarajevo on 5 February, the Commission as an exception would first hear, under agenda item 12, a brief statement by Mr. Mazowiecki, the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia. The debate on the question would be held later, at the time set for the consideration of that item by the Commission.

2. Mr. MAZOWIECKI (Special Rapporteur) appealed to the Commission to adopt a position in regard to the horrible massacre at Sarajevo on Saturday, 5 February, in which 68 persons had died and almost 200 had been seriously wounded. That shelling constituted a war crime against the civilian population and a flagrant and deliberate violation of human rights for which the guilty parties should be prosecuted before the United Nations Tribunal. On the previous evening, shots fired from Serb positions had caused the deaths of nine defenceless persons in the Dobrynia district and, on 22 January, six children playing in the snow had been killed. It was no longer sufficient to condemn those crimes. It was necessary to put an end to them once and for all and to make sure that they could never recur at Sarajevo or in other Bosnian towns.

3. In his first report on the situation in the former Yugoslavia, he had recommended that the heavy weapons used by the Serb artillery against Sarajevo should be placed under effective control. Unfortunately, that recommendation had not been taken up. Moreover, on 6 May 1993, when Sarajevo, Tuzla, Gorazde, Srebrenica, Zepa and Bihac were declared safe zones by the Security Council, the Council had specified that, if any of the parties failed to respect that decision, it would be ready to immediately consider the adoption of any supplementary measures that might be necessary to ensure its full application. In view of what had just occurred, the time had come to take such measures. Responsibility for the crime committed at Sarajevo would be borne not only by its perpetrators but also by all those who remained passive or once again confined themselves to merely expressing condemnation.

4. Consequently, in accordance with his mandate, he recommended that the Commission should request the Secretary-General of the United Nations, as well as the Security Council, to take firm measures to ensure the implementation of the resolutions designed to protect the civilian population. By providing such proof of its determination to defend human rights, the Commission would be strengthening the efforts the Secretary-General had already made to that end. If human rights were to have any meaning, there should be no more equivocation. The Commission's voice should be heard not only by the inhabitants of Sarajevo but also by the entire world.

5. The CHAIRMAN said that Mr. Mazowiecki would be at the disposal of any delegations wishing to enter into consultations concerning the message to be sent to the Secretary-General. The outcome of those consultations would be brought to the attention of the Commission as soon as possible. In the meantime, he invited the Commission to continue its consideration of agenda items 5, 6 and 14.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued) (E/CN.4/1994/15; A/48/525)

ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE RACIST AND COLONIALIST REGIME IN SOUTH AFRICA (agenda item 6) (continued) (E/CN.4/1994/16, E/CN.4/Sub.2/1993/11 and Add.1)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 14) (continued) (E/CN.4/1994/63 and 66; A/48/423)

6. Mr. UNGERER (Australia), speaking on agenda items 5 and 14, said that, since the Commission's previous session, the elimination of apartheid had become an irreversible process. The Australian Government had always contributed to the efforts made by the international community to that end, as reflected in the stand it had taken against apartheid in international forums and the pressure it had brought to bear on the South African Government to ensure the creation of a multiracial democratic society based on social justice and freedom for all citizens of South Africa. Consistent with that policy, Australia had fully supported the decision taken by the Commonwealth Heads of Government at their meeting at Harare in October 1991 to gradually lift the sanctions against South Africa as soon as real progress was made towards the abolition of apartheid. In conformity with that decision, the Australian Government had lifted all the sanctions against South Africa by September 1993.

7. Australia was also supporting the electoral process in South Africa, not only financially but also by sending experts on electoral matters, and would be financing a voter education programme through the University of the Western Cape. Australia had also contributed to the initiatives that had recently been taken by the Commonwealth and the United Nations to facilitate the transition towards democracy in South Africa, particularly through the two Commonwealth observer missions. Finally, it had contributed $A 250,000 towards the establishment of the Commonwealth Election Observer Group and would be sending observers to participate not only in that mission but also in the United Nations observer mission to South Africa.

8. In spite of the numerous positive steps taken in 1993, the violations of human rights in South Africa had escalated. As noted in the report of the Ad Hoc Working Group of Experts (A/48/1625), more than 4,000 deaths due to political violence, for which the security forces were directly or indirectly responsible, had been reported in 1993, and 36 persons were said to have died as a result of torture while in police custody. Those acts of violence obviously had adverse repercussions, which could not be disregarded, on the exercise of human rights. Nevertheless, 1994 would be a critical year for

South Africa and it was therefore important for the international community to give that country its full support in order to guarantee the success of the current process of democratization. In that regard, his delegation welcomed the adoption by the General Assembly, at its previous session, of a resolution on the lifting of sanctions against South Africa; it hoped that South Africa would soon be able to assume its rightful position among the community of democratic nations.

9. The history of apartheid had shown that the fight against racism began with the fight against ignorance and prejudice. It was for that reason that Australia was urging all interested delegations to work together to develop an effective programme of action for the Third Decade to Combat Racism. Education would be crucial to that process and his delegation therefore urged the Secretary-General to examine the activities that were being undertaken in that regard by the Centre for Human Rights and the Department of Public Information with a view to centralizing all the education and public information programmes in the field of racism in a single unit based at Geneva, through a redeployment of the resources currently allocated to the Department of Information.

10. Moreover, his delegation wished to commend to the Commission the important role that national institutions could play in promoting tolerance and combating racism and racial discrimination. The Australian Human Rights and Equal Opportunities Commission and the Centre for Human Rights had jointly organized at Sydney, in April 1993, a meeting of representatives of national institutions and other organizations endeavouring to promote tolerance and harmony among peoples. Australia had already provided a number of countries with substantial aid through that Commission and would continue to do so.

11. In that connection, it should also be noted that, in 1993, the Australian Parliament had adopted the Native Title Act, which, in conformity with article 1, paragraph 4, of the International Convention on the Elimination of All Forms of Racial Discrimination, was designed to promote and protect the rights of all Aboriginal and Torres Strait Islander peoples and further advance the process of reconciliation among all Australians. The Act made provision, in particular, for recognition of the land rights of the Aborigines and compensation for all those whose ancestral titles had been extinguished. In 1993, the Australian Government had also established the Social Justice Commission, which was responsible for all questions relating to Aboriginal and Torres Strait Islander peoples, as well as the post of Race Discrimination Commissioner, who was empowered to investigate all complaints of racial discrimination and settle conflicts in that field.

12. In conclusion, the Australian delegation welcomed the decision taken by the Vienna World Conference on Human Rights to make the elimination of racism and racial discrimination a primary objective for the international community. The latter should continue to make every endeavour to achieve the kind of world envisaged in Chapter I of the Charter of the United Nations, namely a world in which the human rights and fundamental freedoms of all were respected "without distinction as to race, sex, language or religion".

13. Mr. MWAUNGULU (Malawi) said that Malawi, which was taking its seat on the Commission on Human Rights for the first time, was engaged in a process

of political transition which the Government had been able to conduct peacefully in spite of numerous difficulties. Accordingly, following the national referendum in June 1992, Parliament had enacted far-reaching legislative measures to guarantee human rights and fundamental freedoms, such as freedom of the press and freedom of assembly. Those measures also allowed the formation of political parties, repealed the legislation relating to detention without trial, proclaimed an amnesty for all political exiles and established a transitional institutional machinery with a view to holding general elections on 17 May 1994. The Government had also permitted representatives of the International Committee of the Red Cross, as well as Amnesty International, to visit Malawi.

14. The general elections in Malawi would be held only three weeks after the elections in South Africa and general elections were also due to be held in Mozambique in October 1994, following the implementation of most of the protocols of the Peace Accord signed at Rome in October 1992 by the parties to the conflict in that country. The success of the peace process that had been initiated in Mozambique would obviously have positive socio-economic implications for Malawi, and the United Nations should therefore be congratulated on that success after 16 years of devastating civil war.

15. The prospect of the re-establishment of peace in Angola should also be welcomed as a further stabilizing factor in the region. The efforts made to put an end to the fratricidal war that was raging in that country should therefore be pursued and, in his delegation's view, the question of Angola should be considered by the Commission as a separate agenda item.

16. A few years ago, no one could have imagined that the South Africans would be going to the polls in April 1994 to elect a black majority government on the basis of universal suffrage. The role that had been played in that regard by Mr. Nelson Mandela, the President of the African National Congress, and Mr. De Klerk, the President of South Africa, could not be overemphasized. Hopefully, all remaining problems would be overcome and all political parties, including the right wing, would be participating in the electoral process. Mrs. Attah's report monitoring the transition to democracy in South Africa (E/CN.4/Sub.2/1993/11 and Add.1) and the interim report of the Ad Hoc Group of Experts (E/CN.4/1994/15) clearly showed that much remained to be done and it was particularly important that all the mechanisms that had been established should function effectively. The South African Government should take the measures needed in that regard, on the basis of the Interim Constitution, by ensuring scrupulous respect for law and order and modifying the judicial system in order to rid it of the legacy of apartheid.

17. It was evident that the principal political parties should make every effort to narrow their differences by recognizing the fact that dialogue and reconciliation were the only way to put an end to the violence and ensure the success of the process of transition that had begun in South Africa. The international community should make every endeavour to that end, since failure in the process of transition towards democracy in South Africa would have disastrous consequences for peace, security and economic development not only in southern Africa but in Africa as a whole. His delegation therefore strongly supported the Special Rapporteur's recommendation that the international community should provide more observers to monitor the general

elections in South Africa. Intergovernmental bodies such as the European Union, the Commonwealth Secretariat and the Organization of African Unity should also be urged to make a commitment to send a larger number of on-site observers.

18. It was plain that the effects of apartheid would unfortunately be long-lasting, since under the apartheid regime the majority of South Africa's population had been deprived of all their rights in all fields, including education, health, employment and housing. National reconciliation should therefore go hand in hand with national reconstruction and the implementation of a sustained programme of fair and equitable distribution of the country's wealth among all those who had been denied it for too long. The United Nations, the international community as a whole, international financial institutions and non-governmental organizations therefore had a crucial role to play in that regard and should redouble their endeavours to assist South Africa, particularly after the elections and the installation of a majority multi-party, multiracial democratic government.

19. In conclusion, his delegation believed that the Commission, through its Sub-Commission on Prevention of Discrimination and Protection of Minorities, should increase its assistance to South Africa during the delicate post-election phase. In particular, the Special Rapporteur to monitor the transition to democracy in South Africa should be given more time to study the economic and social aspects of that transition. Her findings and recommendations would greatly help the Commission to decide on the measures that United Nations bodies should adopt to assist South Africa. In making that proposal, his delegation was fully aware of the financial constraints with which the Centre for Human Rights, in particular, was faced, but it was convinced that such a new effort would be worthwhile in so far as it would steer South Africa on the path towards democracy and would so produce beneficial effects not only in the region but also in the rest of Africa.

20. Mrs. BOZHKOVA (Bulgaria) welcomed the positive developments that had taken place in South Africa since the signing of the National Peace Accord in 1991, particularly the successful completion of the multi-party negotiations and the conclusion of the agreements on the Interim Constitution and the elections, as well as the establishment of the Transitional Executive Council which would be running South Africa until the formation of a new government following the elections on 27 April.

21. The Bulgarian delegation was encouraged by the fact that, at the first meeting, on 7 December 1993, the Transitional Executive Council had adopted a resolution requesting, inter alia, the United Nations to send a sufficient number of international observers to monitor the electoral process and coordinate the activities of the international observers provided by the Organization of African Unity, the European Union, the Commonwealth and certain countries. The elections on 27 April would constitute a first step towards the achievement of an objective that the South African people and the international community had been pursuing for more than 40 years, namely the final and complete abolition of the system of apartheid and effective respect for the human rights and fundamental freedoms of all the inhabitants of South Africa. None of that would have been possible without the political vision, courage and perseverance of Mr. De Klerk, the President of

South Africa, and Mr. Mandela, the President of the ANC, who had initiated the process of national reconciliation. Consequently, tribute should be paid to them and to all the South Africans who had struggled against apartheid for so many years, at great cost, in order to be able to exercise their inalienable rights.

22. Many problems still had to be solved, particularly the acts of political violence detailed in the report of the Ad Hoc Group of Experts (E/CN.4/1994/15). All the parties to the conflict should therefore do their utmost to put an end to those acts of violence with the assistance of the United Nations and, in particular, the Commission on Human Rights. In that regard, her delegation approved the conclusions and recommendations that Ms. Attah, the Special Rapporteur to monitor the transition to democracy in South Africa, had formulated in her report (E/CN.4/Sub.2/1993/11 and Add.1), especially those contained in paragraph 59 (d), (e) and (f).

23. Her delegation shared the view of others that the international community should continue to monitor the situation in South Africa after the elections, since adaptation to the post-apartheid realities could obstruct the promotion and protection of human rights. That should be done through the Commission's existing mechanisms, particularly the advisory services programme.

24. In conclusion, she expressed the hope that the resolutions the Commission would be adopting on that question would reflect its support for the process under way in South Africa, with a view to enabling all South Africans to exercise all their rights.

25. Mr. Endo (Japan) took the Chair.

26. Mr. TARRE MURZI (Venezuela) said that his country, which was a truly multiracial State, welcomed the democratic transition that was under way in South Africa so that all South African ethnic groups could take part in public life. Although that process seemed irreversible, there were still many manifestations of political violence that could jeopardize successful completion of the transition, as shown by the report of the Ad Hoc Group of Experts (E/CN.4/1994/15). Even though the root of the violence lay in the economic and social inequalities that were a legacy of the apartheid system, all groups must put an end to their intolerant attitude in order to promote national reconciliation. In that regard, Venezuela deplored the fact that the South African authorities had not permitted the Ad Hoc Group to visit South Africa in order to analyse the human rights situation in greater detail.

27. Mindful of the irreversible nature of the political process, of the need for South Africa to rejoin the concert of nations and of the importance of international cooperation and assistance to strengthen democracy, the Venezuelan Government had decided, at the end of 1993, to establish diplomatic relations with Pretoria.

28. In addition to South Africa, however, numerous other countries throughout the world were faced with serious acts of racial discrimination. On the American continent, for example, indigenous peoples, Blacks, mestizos and mulattos were the victims of numerous forms of discrimination. In some countries in the Americas, it was rare for Blacks and Indians to hold high

political or administrative posts. Likewise, in Europe, the right of asylum was being seriously impeded and some laws and constitutions were being modified in the democratic countries of western Europe virtually to abolish the right of asylum. Certain Governments, sometimes acting in an extremely brutal manner and showing veritable contempt for human rights, seemed to want to put an end to the welcome that had been extended to workers and students from Latin America, Africa and Asia. The Commission would be well advised to examine that new form of discrimination under which millions of persons aspiring to a better standard of living were being prevented from benefiting from the progress achieved by western civilization.

29. Mrs. SABHARWAL (India) said that the international community's support for the anti-apartheid movements in South Africa had undoubtedly made an invaluable contribution to the emergence of the new South Africa. The free elections that were to be held there would truly herald the birth of a united, democratic and non-racial South Africa and make it possible to strengthen the measures taken to irreversibly dismantle the structures of apartheid.

30. India wished to pay tribute to Mr. Nelson Mandela and President De Klerk for the way in which they had helped to put an end to the apartheid regime and lay the foundations for a democratic South Africa.

31. Unfortunately, South African society was still faced with numerous problems, such as the violence that could have an adverse impact on the free elections. Accordingly, a solution should be found to the phenomenon of violence, to establish a climate of political tolerance and to devise effective and durable solutions to the socio-economic inequalities. The international community and the United Nations should continue to support that process. The end of apartheid should not lead to tribal or ethnic conflicts.

32. In view of the fact that the process of eliminating apartheid in South Africa had become irreversible, India had responded positively to the appeals of the South African liberation movements, as well as the decisions taken by the United Nations and the Commonwealth, by lifting the economic sanctions and embarking on a comprehensive programme of bilateral cooperation. There was a need to propose effective economic reconstruction programmes for the new united, democratic and non-racial South Africa. India had also re-established diplomatic relations with South Africa in November 1993.

33. Her delegation shared the opinion expressed in the report of the Special Rapporteur to monitor the transition to democracy in South Africa (E/CN.4/Sub.2/11 and Add.1), to the effect that it was the primary responsibility of the South African Government to maintain law and order, promote peaceful coexistence and protect the lives and property of individuals. The international community could play only a complementary role in that regard.

34. India strongly supported the recommendations concerning confidence-building measures, the restructuring of the security forces, the strengthening of the National Peace Accord and the complementary role of NGOs in consolidating the transition to democracy. India also supported the recommendations of the Goldstone Commission concerning the prevention of violence.

35. Mr. HASHIM (Bangladesh) welcomed the recent transformations that had taken place in South Africa. The establishment of the Transitional Executive Council, which was already in operation, was one of the most significant milestones in the struggle to dismantle apartheid in South Africa. Bangladesh hoped that the first non-racial, multi-party elections scheduled for 27 April 1994 would be conducted peacefully in order to give birth to a new, democratic and non-racial South Africa.

36. However, it was disturbing that some conservative groups were still unwilling to associate themselves with the ongoing political process. It was also extremely alarming to note that political violence was continuing between various groups of South African society. Bangladesh shared the concerns of the Ad Hoc Group of Experts in that regard and believed that it was particularly important that the Group should visit South Africa in 1994.

37. The report prepared by the Special Rapporteur to monitor the transition to democracy in South Africa (E/CN.4/Sub.2/1993/11 and Add.1) also contained a number of important observations and recommendations. Bangladesh shared the Special Rapporteur's view concerning the imperative need for all the parties and groups to participate in the elections in order to ensure the broadest possible representation in Parliament. Bangladesh also supported the recommendation that the United Nations should initiate and coordinate a process of detailed planning of socio-economic assistance programmes, particularly in the areas of human resource development, employment, health and housing.

38. Although the world was witnessing the demise of apartheid, new forms of racism, intolerance, xenophobia and racial hatred were emerging. At the present time, the most brutal of the new forms of racism was being experienced in Bosnia-Herzegovina. Could the international community afford to remain a silent spectator to those new manifestations of intolerance? Bangladesh strongly condemned the inhuman and barbaric attack on a Sarajevo market two days earlier and urged the international community to put an end to that savagery without further loss of time.

39. Mr. CLOVIS (Syrian Arab Republic) said that his country, which had long supported the South African people's struggle, wished to express its satisfaction at the efforts made by the Ad Hoc Group of Experts and the Special Rapporteur to monitor the transition to democracy in South Africa. The Syrian Arab Republic believed that the recommendations contained in the latter's report should be implemented with a view to eliminating apartheid and laying the foundations of a non-racial system in South Africa.

40. In the statement that he made on behalf of the African Group, the representative of Tunisia had presented an analysis of the situation in South Africa which the Syrian Arab Republic endorsed: after paying a heavy price in their struggle against apartheid, the South African people seemed to have victory within their reach, however, it was essential to remain cautious and vigilant until democracy had really taken root in South Africa and civil and political rights were respected there.

41. Over the past year, violations of human rights had continued in South Africa. Consequently, the efforts to support the democratic forces in

that country should be stepped up in order to prevent the conservative and racist extremists from obstructing the process of democratization. During that critical phase, the international community should also provide the South African people with all the requisite support so that they could also enjoy their economic, social and cultural rights.

42. Mr. PARK (Republic of Korea) welcomed the important achievements that had been made by the negotiators in South Africa. However, although the political atmosphere had improved considerably, the ongoing violations of human rights and the endemic violence were extremely disturbing. It was well known that various political forces in that country were hostile to the current process and were seeking to obstruct the democratic transition by resorting to force. In that regard, the Republic of Korea urged the South African Government to show greater determination to curb the violence and guarantee the security of all citizens.

43. Even when the apartheid system had been completely dismantled, the socio-economic inequalities in South Africa would pose a threat to the stability of the new democracy. It was therefore imperative for the international community to provide South Africa with long-term assistance, particularly in human resource development, housing and employment. The lifting of sanctions would facilitate economic recovery in South Africa and, consequently, would be beneficial to the population as a whole.

44. During the last 15 months, the United Nations Observer Mission in South Africa (UNOMSA) had contributed to the transition process. The Republic of Korea welcomed the fact that the Security Council had decided, in resolution 894 (1994), to provide a sufficient number of observers to monitor the electoral process. The Republic of Korea hoped to participate in those efforts by contributing observers to UNOMSA.

45. Although the goal of establishing a democratic and non-racial South Africa was in sight, racism and racial discrimination were still rampant in many parts of the world. As indicated in the Programme of Action of the Third Decade to Combat Racism and Racial Discrimination, the greatest contribution to the elimination of racial discrimination must come from the States concerned. For that reason, the Republic of Korea wished to emphasize the importance of human rights education and public information activities in that regard.

46. Mr. VELTHEIM (Finland), speaking on behalf of the five Nordic countries, Denmark, Finland, Iceland, Norway and Sweden, welcomed the remarkable progress that had been achieved within the framework of the multi-party negotiating process in South Africa: an interim constitution had been adopted by the Parliament and the Transitional Executive Council, which was a non-racial executive body, would be able to supervise the transition until a democratically elected Government was in place. The first democratic elections were due to be held in April 1994 and, for the first time, all South Africans, regardless of race, would have an opportunity to exercise their right to vote. That progress had been achieved through the efforts of Mr. Nelson Mandela and President De Klerk, who had rightly been awarded the Nobel Peace Prize.

47. However, in a country where the majority of the population had been excluded from power for so long, the democratic transition was a difficult process, as demonstrated by the ongoing political intolerance in South Africa, which was giving rise to violence and intimidation. The Commission should urge the political leaders in South Africa to allow all South Africans to express their views freely during the election campaign and to take part freely in the elections.

48. Moreover, the parties that had not participated in the multi-party negotiations concerning the transitional arrangements and the interim constitution were currently threatening to stay outside the process and to boycott the elections. The Ministers for Foreign Affairs of the Nordic countries had recently made a joint appeal to all the parties in South Africa to join the process and advocate their views within the framework of that process.

49. As noted in the report of the Ad Hoc Working Group of Experts, the new South Africa would inherit many institutions dating from the apartheid era. Consequently, far-reaching reforms would be needed in the field of education, health care, the public sector, the labour market, the police, the press and the media. It was vital that the international community, which had played an important role in helping to dismantle the apartheid system, should continue to support the democratic process in South Africa during the transition period. In that regard, an adequate response should be given to the request from the South African authorities for electoral assistance and monitoring. In that connection, the Nordic countries welcomed the Secretary-General's decision to create a special Trust Fund to finance the dispatch of third-world observers to monitor the elections in South Africa.

50. In general, the Nordic countries wished to reaffirm their desire to combat all forms of racism and racial discrimination. Accordingly, they welcomed the appointment of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and fully supported the preparations for the Third Decade to Combat Racism and Racial Discrimination. In that regard, it should be emphasized that the resurgence of xenophobia and racial intolerance in developed democratic societies was a cause of great concern.

51. Finally, it seemed evident that, in view of the evolving situation in South Africa, the way in which the Commission dealt with that question should also evolve. The Nordic countries proposed that, in future, there should be only one agenda item on the human rights situation in South Africa and only one mechanism to monitor the transition period. Consideration should also be given to the possibility of eventually removing the situation in that country from the agenda item on the violation of human rights in any part of the world.

52. Mr. MIRCEA (Romania) said that, on the question of racism and racial discrimination, which was among the most important and complex items on its agenda, in 1994 the Commission was benefiting from an enhanced and more clearly focused framework in regard to principles as well as action to be taken. That was due primarily to the recommendations contained in the Programme of Action of the Conference held at Vienna in June 1993, as well as

the work of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The Commission was also guided by the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination, which had recently been adopted by the General Assembly in resolution 48/91, and the underlying goals and principles of the decade, although already announced in 1973, were still fully valid.

53. For its part, democratic Romania was endeavouring to fulfil its international commitments to prevent and combat all forms of racism and racial discrimination. In 1992, it had condemned attitudes of a chauvinistic or anti-Semitic nature, even though they reflected the views of only a very small number of citizens, and on that occasion it had urged the population not to permit demonstrations that ran counter to democratic and constitutional values.

54. At the regional level, Romania had approved the "Declaration and Plan of Action Concerning Measures to Combat Racism, Xenophobia, Anti-Semitism and Intolerance", which had been adopted at the Conference of Heads of State or Government of the Member Countries of the Council of Europe in October 1993 and which the Commission and the Special Rapporteur on new forms of racism should take into consideration in their work.

55. In conclusion, he supported the suggestion that a reference to anti-Semitism should be made in the Commission's resolutions. He also proposed that the Commission's resolutions should henceforth mention the need to provide the population in general, and the school-age population in particular, with more intensive training and education in a human rights culture.

56. Mr. NOVOA (Cuba) said his country had supported the peoples of South Africa and the front-line States in their struggle against apartheid. He was convinced that the victory of the Angolan people at Cuito Canavale had helped to undermine the foundations of the South African racist system and, consequently, to set in motion the process of transformation currently under way in South Africa. He welcomed the establishment of the Transitional Executive Council, the adoption of the electoral law and the organization of general elections that would give black citizens an opportunity, for the first time in the country's history, to exercise their right to vote and to be elected.

57. However, he warned against premature optimism in view of the ongoing need to combat the forces of white right-wing extremism and blind black conservatism and to eliminate the consequences of 45 years of racial intolerance against the black majority. Moreover, far from consisting solely of a set of laws and institutions intended to exploit the black majority, apartheid had become deeply rooted in (mainly unwritten) rules of a psychological, economic and cultural nature which even the right granted to the black population to participate in public life would not be enough to eradicate unless policies and strategies were implemented to improve the black population's real economic level.

58. Moreover, the spiral of unbridled violence posed a serious threat to the stability needed for the process of reconciliation in South African society.

Neither the positive measures President De Klerk had taken to dismantle apartheid, nor the constructive dialogue he had initiated with the representatives of the black majority, nor even the purge of the defence and security forces, had managed to curb the violence, and Mr. Nelson Mandela's efforts to negotiate with the representatives of the white minority and to repress the obscurantist reactions of the black conservative forces had been equally unsuccessful.

59. It was therefore absolutely essential for the international community to pay heed to the process of democratization in South Africa and offer assistance. In its preliminary report (E/CN.4/1994/15), the Ad Hoc Group of Experts on Southern Africa had emphasized that the gross and systematic violations of the rights of the black majority in South Africa were continuing and its recommendations and conclusions, which were the outcome of an objective analysis, placed the international community under an obligation to keep that situation under review. He hoped that the South African authorities would permit the Ad Hoc Group to visit the country.

60. In her report on the monitoring of the transition to democracy in South Africa (E/CN.4/Sub.2/1993/11 and Add.1), Ms. Attah, the Sub-Commission's Special Rapporteur, had stressed the need to dispatch a new mission in the coming months to make a closer study of the extent to which all citizens were enjoying their social and economic rights.

61. Cuba attached special importance to the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination and endorsed the idea of establishing an open-ended working group to help the Commission to draw up recommendations to the Economic and Social Council with a view to making the Programme more effective.

62. It was deplorable that, while developments in South Africa seemed to be taking a favourable turn, neo-fascism and brutal xenophobia had become commonplace in Europe, in which the most developed countries were situated, and in the United States. In view of the grave threat that the rise of neo-fascism posed to mankind, it was surprising that the Commission had not received in time, and in all the languages, the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. The Commission should be vociferous in protesting against that scourge and should take the measures needed for its total eradication.

63. Mr. IQBAL (Pakistan) paid tribute to the sagacity of the South African leaders and the determination shown by the people of that country. They had all decided to break the chain of hatred and rancour. A new dawn was rising in South Africa and it was to be hoped that the forthcoming elections in April 1994 would establish a truly democratic system, that they would be conducted in an atmosphere of peace and security, and that the South African Government would remain completely neutral and impartial.

64. Major obstacles still needed to be overcome, particularly in regard to the powers that would be exercised by the various regions and homelands, but there were encouraging signs that gave cause to hope for the complete elimination of apartheid. Pakistan, which had always opposed apartheid in

whatever form and wherever it might occur, urged the international community to extend its full support to the democratic forces in South Africa in order to help them to thwart the nefarious designs of extremist elements and rebuild the country.

65. Mr. ZACHKEOS (Cyprus) welcomed the agreement that had been reached in South Africa on a date for the holding of democratic elections, on an interim constitution and on the establishment of a Transitional Executive Council. Mr. Nelson Mandela and Mr. De Klerk truly deserved the Nobel Peace Prize which had been awarded to them for their successful efforts to reach a peaceful negotiated solution.

66. He paid tribute to the numerous black victims of flagrant violations of human rights in South Africa and also commended the courage and boldness of the white leaders who were determined to put an end to the injustice from which the majority of the population were suffering. For South Africa to become a peaceful, united, non-racial and democratic country, its political forces would need to show a spirit of genuine cooperation. It was to be hoped that the international community would soon be able to welcome the first democratically elected South African Government among its members and would show generosity towards that new Government, which would be responsible for the economic and social reconstruction of the country.

67. However, racial discrimination was unfortunately rampant in Europe, which was witnessing a resurgence of xenophobia, nationalism and religious intolerance. In Cyprus, the policy of expelling the Greek Cypriots from their homes in the occupied parts of the island was one example among many.

68. Mr. HENRY (United States of America) welcomed the emergence of a new South Africa born of the desire of the white minority to cast off racial hatred and the determination of the black majority to accept multiracial democracy. The Transitional Executive Council had already been formed, marking the effective end of white political domination and the Parliament had approved an interim constitution enshrining the principle of the equality of all South Africans and making full provision for measures to ensure a genuinely democratic and open system in South Africa. An increasing number of South African parties had decided to participate peacefully in the electoral process and, in the case of those that had not yet taken that decision, meetings and negotiations were continuing with a view to overcoming their reluctance.

69. After emphasizing the progress that had already been made, as illustrated by the legislation promoting the equality of women and protecting the family from violence, the measures taken to encourage women to stand as candidates in the April elections and the decision to dismantle homelands, which were the first steps towards integrating all South Africans in the social and political life of the country, he said that the sanctions, rightly imposed on the country in days gone by, were no longer justified. It was vital for all South Africans to be able to participate in their country's economic activity. South Africa, where infant mortality was 10 times higher among the blacks than among the whites and where an estimated 7.5 million people had no permanent shelter, was confronted with a gigantic task in that regard. The country would be unable to perform that task unaided and the Commission and the

international community should therefore assume their responsibilities in that connection once a new Government took office. Their assistance would be needed to make sure that the dream of a non-racial constitutional democracy became a reality.

70. Although the changes taking place in South Africa were undoubtedly irreversible, much remained to be done in that country, which was still plagued with violence. The United States approved the idea of assigning independent bodies to investigate incidents of violence and, in general, called upon all the parties to embark on the difficult task of reconciliation. The United States also called upon the Commission to take concrete steps to help South Africa to implement the human rights provisions in its new Constitution. In that regard, the Commission should, for example, form a working group which could meet immediately to consider measures to help the Transitional Executive Council to restructure, inter alia, the legal and judicial system that had been in force during the apartheid era.

71. Mr. DON NANJIRA (Kenya) said he welcomed the dismantling of apartheid, which, as a policy implying separate development and domination by a minority, had been doomed to failure from the start. Like previous speakers, he wished to congratulate the experts and Ms. Attah for their well-documented reports on recent developments in the situation in South Africa. Those reports showed that improvements that had seemed to be merely a dream were gradually becoming a reality.

72. That new reality was due primarily to the endeavours made by Mr. De Klerk, the President of the Republic, and Mr. Nelson Mandela, the President of the ANC. However, to a lesser degree, it was also due to the efforts of African personalities such as President Daniel Arap Moi and other OAU Heads of State or Government, particularly those of the front-line States. The vigilance of the entire international community had also been instrumental.

73. However, it should not be forgotten that apartheid had not yet disappeared and its consequences would continue to be felt for many years to come. The violence, the violations of rights and the poverty that it had bred were affecting and would continue to affect a large proportion of the population long after the elections. All those who had the welfare of the South Africans at heart should promote a smooth transition towards a peaceful settlement of the region's political and socio-economic problems.

74. To that end, it was essential for the South African Government to continue to cooperate with the international community, which should continue to monitor developments in the situation and for the parties involved in the transitional period, whether African, non-African, governmental authorities or non-governmental organizations, to assist in the democratic process by taking steps to unite all South Africans. South Africans of different ethnic and racial backgrounds should be brought together through seminars and various academic, commercial, political or other activities. Much remained to be done, for example, in the field of justice and police training and, in general, to encourage political tolerance and foster a human rights culture. Exchanges with African Americans, such as those that had taken place in the past year in West Africa, would certainly be useful in that regard. For its

part, Kenya was ready to play an active role in genuine international cooperation to promote the success of the democratic process in South Africa.

75. Mr. BOUKAOURIS (Observer for Greece), speaking on behalf of the European Union on agenda item 14, pointed out that the international community, meeting at the World Conference on Human Rights at Vienna in June 1993, had declared that the elimination of racism and racial discrimination, particularly in an institutional form such as apartheid or resulting from doctrines founded on racial superiority or exclusion, constituted a crucial objective. More recently, in resolution 48/91, the General Assembly had proclaimed the Third Decade to Combat Racism and Racial Discrimination. The European Union welcomed the fact that the Programme of Action of the Third Decade had been approved by consensus and hoped that the implementation of the Programme would give rise to practical activities.

76. The suggestion made by Mr. Ibrahima Fall, the Assistant Secretary-General for Human Rights, that a "focal point" should be established in the Centre for Human Rights was interesting and in keeping with General Assembly resolution 48/91. The European Union also shared the view expressed by the Secretary-General in his report (E/CN.4/1994/63) to the effect that the national measures taken by States constituted the first contribution to the elimination of racial discrimination. Moreover, the European Union wished to affirm that it would be offering its full cooperation to the Special Rapporteur to study contemporary forms of racism, racial discrimination, xenophobia and related intolerance, whose preliminary report was to be examined by the Commission.

77. The Committee on the Elimination of Racial Discrimination was effectively monitoring the application of the International Convention on the Elimination of All Forms of Racial Discrimination. It had made extremely interesting recommendations on the delicate question of State succession and had adopted a document entitled "Prevention of Racial Discrimination, Early Warning and Emergency Procedure" which should help to strengthen its role. It should contribute actively to the Third Decade and maintain close relations with the Special Rapporteur of the Commission on Human Rights. The European Union called on all Governments to study the possibility of declaring, under the terms of article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, their recognition of the competence of the Committee to receive communications from individuals or groups of individuals alleging that their Government had violated its obligations under the Convention.

78. Since the Committee on the Elimination of Racial Discrimination had often suffered from budgetary problems, it was to be hoped that the requisite appropriation under the United Nations regular budget would enable the experts to discharge their duties more effectively. To that end, States should rapidly ratify the amendment modifying the Convention in that regard. All States should also honour their financial obligations towards the Committee.

79. The European Union expressed its rejection of all forms of racism in all international forums. It had done so recently in the Council of Europe during the Summit of Heads of State or Government that had met at Vienna in October 1993. The declarations adopted by the Council at Dublin in 1990 on

anti-Semitism, racism and xenophobia and, at Maastricht in 1991, on racism and xenophobia were the cornerstone of its endeavours. Those declarations had been reaffirmed by the Council of Europe at Copenhagen in June 1993. However, the countries of the European Union were not immune to racism and xenophobia; the deteriorating socio-economic situation sometimes gave rise to intolerance and exclusion. Instead of confining themselves to verbal condemnation, Governments should prevent any manifestation of racism and xenophobia and should punish any propaganda for, or advocacy of, national, racial or religious hatred constituting incitement to discrimination, hostility or violence.

80. Although the international community could take credit for helping to dismantle the components of apartheid and for contributing, through its pressure, to the democratic transition in South Africa, it could not but be indignant at the resurgence of crimes committed in the name of doctrines of racial or ethnic purity. The "ethnic cleansing" that was a systematic policy in the territory of the former Yugoslavia was the most flagrant of those practices. All the persons responsible for those crimes should be prosecuted. More than ever before, there was a need to defend the right of all individuals to exercise their rights without any discrimination.

81. Mr. MTANGO (Observer for the United Republic of Tanzania) said that the political measures and the legislation that had recently been adopted in South Africa recognized the equality of rights of all South Africans, as well as equality between men and women. However, all forms of discrimination had not disappeared in that country, and the discrimination against black women was particularly serious. In fact, the blacks in that country had waited 350 years to be able fully to enjoy their economic, social and cultural rights.

82. Nevertheless, the Commission on Human Rights was not a political forum to assess political changes in Member States, since that function was undertaken by the General Assembly. The specific task of the Commission was to defend and protect human rights. It was from that standpoint that his delegation hoped the mandate of the Ad Hoc Group of Experts on Southern Africa would be extended. Since 1967, the Group had been studying the human rights situation in South Africa and denouncing the serious and systematic violations of those rights. It was not surprising, therefore, that the six independent experts on that body had not been permitted by the Government to visit South Africa. In view of the recent changes, however, there was reason to hope that the Group would now be able to visit that country and prepare a report that the Commission could use to consider changing its mandate at its next session.

83. The serious violations of human rights described in the report by the Ad Hoc Group of Experts had also been reported by several human rights protection organizations. It seemed that the right to life was being violated with impunity, as illustrated, for example, by the fact that 4,364 persons had apparently died in 1993 as a result of politically-related acts of violence in which the security forces had been involved directly or indirectly. The number of detentions without trial had also apparently increased by 61 per cent in 1993 as compared with the preceding year, which indicated that the new internal security laws had not been applied. Furthermore, members of the South African police and the homeland police forces had committed acts of

torture and cruel, inhuman and degrading treatment. Children had been arrested and held in prisons for adults in deplorable conditions. The development and welfare of black children had been totally neglected and the infant mortality rate among blacks was 10 times higher than among whites. Reports had also denounced shortcomings in regard to guarantees of due process and freedom of association and assembly, as well as inequalities in the education system and discrimination against women, particularly black women. Moreover, blacks could still be forcibly removed from white areas under cover of the Prevention of Illegal Squatting Act, which remained in force. The South African Government should also clearly state its position on the future of the homeland system, which, under the present circumstances, could enable the leaders of homelands such as Bophutaswana and Ciskei to obstruct the democratic elections scheduled for 27 April.

84. The Commission should therefore continue to consider the human rights situation in South Africa as a matter of priority and should urge the South African Government to grant visas to the members of the Ad Hoc Group of Experts so that they could visit the country. For its part, the international community should ensure that the South African Government organized truly free and fair elections in the near future and should provide all the support needed to guarantee a successful transition to democracy in South Africa.

85. Mr. SOUALEM (Observer for Algeria) said that, with regard to South Africa, the international community should continue to support the bold measures taken by the authorities and, with its endeavours, help the majority to exercise their legitimate rights and contribute to the re-establishment of confidence and concord among the communities.

86. Among the tasks to be accomplished to that end, there was a need, in particular, to reincorporate the homelands in the South African entity, to put an end to violence, and at the same time take measures to enable all sections of the population to effectively enjoy their economic, social and cultural rights. Urgent steps would have to be taken to that effect in three fields: in education, in order to promote universal schooling and protect children from the cycle of violence of delinquency; in training, in order to bring about the changes in mentality needed among the police forces and the judiciary; and in social welfare, in order to bring social justice to South African society.

87. In the opinion of his delegation, the mandate of the Ad Hoc Group of Experts, whose work since 1967 had been extremely useful, should be changed in such a way as to monitor the institutional system during the next five years in order to ensure that the enjoyment of human rights became irreversible. The Centre for Human Rights should immediately embark on a programme of consultations with representatives of the police and the judiciary and the various leaders of civilian society in South Africa.

88. Algeria also welcomed the adoption by the General Assembly of resolution 48/91 of 12 December 1993 proclaiming a Third Decade to Combat Racism and Racial Discrimination. The persistence and the emergence of new forms of racism directed against migrant workers and their families, as well

as asylum-seekers, and the resurgence of nationalism, of which "ethnic cleansing" was the most tragic visible manifestation, were sources of serious concern.

89. Finally, he paid tribute to the Committee on the Elimination of Racial Discrimination for the way in which it was discharging its task and he commended the endeavours of the NGOs, which were conducting an exemplary campaign against theories that advocated rejection and exclusion.

90. Mr. DEGUENE KA (Observer for Senegal) said that the tangible results of the struggle against apartheid in South Africa were far more significant than the resistance that was currently being encountered in that struggle. He paid tribute to the South African leaders, both black and white, whose determination and openmindedness had given additional impetus to the course of history. Nevertheless, the country's problems were far from solved and every effort should be made to ensure that the process of electoral consultation took place in a proper manner and to put an end to all forms of violence. To that end, the South African authorities should release the persons who were still in custody for anti-apartheid activities.

91. Credit should none the less be given to the role played by one protagonist, namely the Organization of African Unity, whose voice had frequently remained unheard. Twenty-five years ago, that institution had proposed a solution in the Lusaka Manifesto on southern Africa. In that historic document, it had recognized that temporary arrangements might be needed to facilitate the smooth transition from the inequality of groups to the equality of individuals. The Manifesto had been hostile to the South African Administration not because the Administration was run by whites but solely because it was in the hands of a minority and the apartheid system was based on an alleged inequality of persons by virtue of their race.

92. After the elections, account would have to be taken of the views of OAU and some other protagonists, such as the front-line States, which were closely concerned with the situation in South Africa, a country that would also certainly need support from the international community in its efforts to promote development and get rid of the heavy legacy of the past. A special technical assistance programme by the Centre for Human Rights seemed indispensable during the crucial post-election phase.

93. His delegation had participated in the adoption of General Assembly resolution 48/91 and approved the idea of establishing a working group, as proposed in the Secretary-General's note (E/CN.4/1994/63). In his view, the States that had not yet ratified and applied the legal instruments prohibiting racism and racial discrimination should be urged to do so. His country was in favour of the introduction of means to prevent and repress the crime of racism and racial discrimination, as well as the adoption of measures of an economic and social nature to avoid the marginalization of racial, religious or linguistic minorities and vulnerable groups. It also believed that the publication of the revised compendium of framework laws that the Secretary-General would soon be making available to the Member States would help Governments to draw up new laws against racial discrimination. Finally, his delegation wished to emphasize the importance that it attached to NGO participation in the struggle against racial discrimination.

The meeting was suspended at 6.15 p.m. and resumed at 6.45 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

Situation of human rights in the territory of the former Yugoslavia (agenda item 12) (continued) (E/CN.4/1994/3, 4, 5, 6, 8 and 47)

94. Mr. van Wulfften Palthe resumed the Chair.

95. The CHAIRMAN announced with regret that the consultations with a view to the formulation of a statement by the Chairman on the tragic shelling of the Sarajevo market had not yet been concluded. He had requested all particularly interested delegations to continue the discussions. He personally was in fa our of a united and strong reaction on the part of the Commission. He hoped that it would be possible to reach agreement so that he would be able to make a statement on behalf of the Commission on the following day.

The meeting rose at 6.50 p.m.